
STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER: 11-01

FOR: ESTABLISHING THE INDIANA HEALTH BENEFIT EXCHANGE

TO ALL TO WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, the Congress of the United States enacted and the President of the United States signed into law the Patient Protection and Affordable Care Act (on March 23, 2010) and the Health Care and Education Reconciliation Act (on March 30, 2010) (collectively referred to as "PPACA"); and

WHEREAS, there are numerous serious operational and constitutional challenges to the PPACA; and

WHEREAS, it is unclear how these challenges will impact whether Congress repeals, modifies, or does nothing to change existing PPACA language; and

WHEREAS, PPACA Section 1311(d)(1) requires the health benefit exchange to be "a governmental agency or a nonprofit entity that is established by the State"; and

WHEREAS, PPACA Section 1321(c) provides that if a State fails to establish an exchange, or is determined by the federal government not to have made sufficient progress toward establishing an exchange by January 1, 2013, the health benefit exchange for that State shall be established by the federal government; and

WHEREAS, there is limited federal guidance on health benefit exchanges, and no information at this time on how a federally-based exchange would be formed or how it would operate; and

WHEREAS, Indiana currently believes a State-created exchange protects Hoosiers from undue federal regulation; and

WHEREAS, the stringent timelines make it prudent for any State to conditionally analyze, plan, and prepare for a state-based exchange; and

WHEREAS, it is crucial that the health benefit exchange maintain the existing free market and assure coverage choices to Indiana citizens, coordinate with all appropriate stakeholders and utilize State resources efficiently and effectively; and

WHEREAS, a health benefit exchange structured as a new State agency or placed within an existing State agency would be an unnecessary, costly and burdensome expansion of State government; and

WHEREAS, a health benefit exchange structured as a nonprofit corporation will be best able to coordinate and leverage resources of existing State agencies and respond to, work with and protect the interests of the wide range of stakeholders involved, including Indiana citizens, State agencies, Indiana businesses, qualified health plans and the federal government.

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. The Indiana Family and Social Services Administration will work with other applicable State agencies, including the Indiana Department of Insurance, to cooperate in conditionally establishing and operating an exchange.
2. Assuming there is no forthcoming federal guidance that changes Indiana's decision, Indiana Insurance Market, Inc. (the "Exchange") shall be formed as an Indiana nonprofit corporation to serve as the Indiana health benefit exchange pursuant to PPACA.
3. The Secretary of the Indiana Family and Social Services Administration or the secretary's designee shall serve as the incorporator of the Exchange.

4. If after due analysis the State deems it appropriate to proceed with a State-created exchange, and after it has been determined by the federal government that the State of Indiana has made sufficient progress toward establishing an exchange, a Board of Directors will be selected to manage operations of the Exchange.

5. The Board of the Directors of the Exchange shall include representatives of appropriate State agencies and the Indiana General Assembly. Standing committees will be appointed that represent appropriate stakeholder representation, including, but not limited to, consumers, providers, and actuaries.

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and cause to be affixed the Great Seal of the State of Indiana on this 3rd day of January, 2011.

Mitchell E. Daniels, Jr.
Governor of Indiana

SEAL

ATTEST: Charlie White
Secretary of State

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